

**CITY OF BALTIMORE
COUNCIL BILL 06-0125R
(Resolution)**

Introduced by: Councilmember Holton, President Dixon, Councilmembers Branch, Kraft,
Reisinger, Welch, Conaway

Introduced and read first time: January 23, 2006

Assigned to: Economic Development and Public Financing Subcommittee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Investigative Hearing – Is Comcast of Baltimore, L.P. in Compliance with Baltimore City’s**
3 **MBE/WBE Participation Guidelines?**

4 FOR the purpose of requesting the Director of Governmental and Legislative Affairs of Comcast
5 Baltimore to report to the City Council on the cable company’s compliance with the minority
6 business participation guidelines that were agreed to as part of the franchise agreement of
7 December 2004.

8 **Recitals**

9 Section 7 of Ordinance 04-885, that awards Comcast the cable lucrative cable television
10 franchise to provide cable services to the citizens of Baltimore City, provides specifically that
11 the company will abide by the City’s MBE/WBE business participation policies as follows:

12 EMPLOYMENT AND PURCHASING

13 7.3 MBE/WBE. Franchisee agrees to comply with the City’s statutes, ordinances
14 and regulations regarding participation by minority business enterprises (“MBEs”) as
15 if it were a contractor receiving funding from the City provided that enforcement of
16 this Section shall be exclusively by way of liquidated damages and in no event shall
17 the City seek to suspend or rescind the Franchise for any violation of this Section and
18 women’s business enterprises (“WBEs”). The Franchisee shall use reasonable, good
19 faith efforts to meet a goal for participation by MBE and WBE for purchases and
20 construction contracts as established by the City’s Minority and Women’s Business
21 Opportunity Office (“MWBOO”). MWBOO shall administer the provisions of this
22 Section on behalf of the City, and Franchisee shall comply with MWBOO rules and
23 requirements.

24 A. Documentation to the City on MBE/WBE. Six (6) months after the
25 Effective Date and every six (6) months thereafter while upgrade
26 construction under this Agreement is in progress, and annually thereafter,
27 the Franchisee shall submit to the City written documentation, including
28 executed contracts, service agreements and utilization commitment forms,

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike out~~ indicates matter deleted by amendment.

1 that shall identify the particular MBE/WBEs that are (I) contracting directly
2 with the Franchisee; or (ii) subcontracting with prime contractors who
3 contract directly with Franchisee. The documentation submitted to the City
4 shall specify the dollar value of the participation, type of work to be
5 performed, and such other information as the City may reasonably request.

- 6 B. Waiver of MBE/WBE. In the event that, after the use of reasonable, good
7 faith efforts to meet the goals for MBE and WBE participation established
8 pursuant to this Section 7.3, the Franchisee is able to demonstrate to the City’s
9 satisfaction that sufficient qualified and willing MBEs and WBEs are
10 unavailable, then Franchisee may request a waiver or reduction of the
11 MBE/WBE goals.
- 12 C. Report on MBE/WBE. Six (6) months after the Effective Date and every six
13 (6) months thereafter, the Franchisee shall submit to MOCC a report on its
14 compliance with this Section 7.3. Franchisee may satisfy this requirement by
15 copying MOCC on any such report that it files with another City agency on a
16 semiannual or more frequent basis.

17 7.4 Prequalification. Franchisee and each of its contractors and subcontractors
18 performing work with respect to the Cable System in excess of the dollar amount
19 established by the City shall be prequalified annually with the City. The Franchisee and
20 its contractors and subcontractors shall submit such forms and other information as may
21 be required by the DPW, the DOT, and the Purchasing Agent to obtain such
22 prequalification annually.

23 7.5 Compliance. Franchisee shall ensure that the requirements of Section 7 are adhered
24 to by any Affiliated Person or contractor or subcontractor that is regularly performing
25 functions on the System.

26 The Baltimore City Council has been in the forefront of advocating for minority- and
27 women- owned businesses by, in 1996, adopting legislation that resulted in the establishment of
28 separate City-wide annual goals for the utilization of MBE/WBE enterprises to provide a remedy
29 for past discrimination and to prevent ongoing discrimination in the City’s contracting process,
30 and in urging the Board of Estimates to fund Baltimore Minority Business Initiative – Phase I
31 and II – that provided technical assistance to small businesses to initially enable them to become
32 viable subcontractors and then later to become principal contractors for participation in the
33 award of City contracts.

34 In 1997, the Council continued its momentum by requiring City agencies to report to the
35 Body on their compliance with the Minority and Women’s Business Enterprises policy; in 1999,
36 the Council created the Ad Hoc Committee on Small Business to promote the healthy existence
37 of and to protect the survival of small businesses in the City; in 2000, the Administration and the
38 Council enacted the Ordinance 00-98 – Minority and Women’s Business Opportunity Ordinance
39 – as a result of a Disparity Study that produced evidence that a substantial disparity in the
40 utilization of these businesses in the construction, commodity, architectural and engineering, and
41 service industries in the Baltimore City market area continued to exist.

42 In compliance with the provision of Ordinance 00-98, the Mayor’s Office of Minority
43 Business Development is charged with the mission of ensuring that the City of Baltimore is
44 prepared to create new opportunities for minority-owned (African American, Asian American,

1 Hispanic American, or Native American) and women-owned (51% ownership) businesses. The
2 Council oversight continued with a request to the Baltimore City Delegation to the 2001
3 Maryland General Assembly to sponsor legislation to amend State law to provide for a Maryland
4 Minority and Women Business Enterprise program that is consistent with the more progressive
5 Baltimore City policy. Each year the Council continues to oversee the City's compliance with
6 the minority and women's business program's annual goals.

7 Because Comcast has committed to maintain compliance with the City's MBE/WBE policy,
8 it is appropriate that the Council call upon them to demonstrate their compliance, as has been the
9 policy with all entities subject to the provisions of the City's MBE/WBE business participation
10 policies.

11 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the
12 Director of Governmental and Legislative Affairs of Comcast Baltimore is requested to report to
13 the City Council on the cable company's compliance with the minority business participation
14 guidelines that were agreed to as part of the franchise agreement of December 2004.

15 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Mayor, the
16 President and Director of Governmental and Legislative Affairs of Comcast Baltimore, the
17 Director M/WBE Opportunity Compliance Office, the Director of the Mayor's Office of
18 Minority Business Development, the Chair of the Baltimore City Council Ad Hoc Committee on
19 Small Business, and the Mayor's Legislative Liaison to the City Council.